

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

FEB 25 2009

MARIO ULLOA,

Petitioner,

vs.

HECTOR LEDEZMA, Warden, et al.,

Respondents.

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY W.H. DEPUTY

No. CIV-08-864-W

ORDER

On January 30, 2009, United States Magistrate Judge Valerie K. Couch issued a Report and Recommendation in this matter and recommended that the request to transfer this action to the United States District Court for the Western District of Texas filed by defendant United States of America be denied because the United States is not a proper respondent to this action. The parties were advised of their right to object to the Report and Recommendation, but no objections have been filed within the allotted time.

Upon review of the record, the Court concurs with Magistrate Judge Couch's finding that because the United States is not petitioner Mario Ulloa's current custodian, it is not a proper respondent, e.g., 28 U.S.C. § 2242, and with her suggested disposition of the United States' request to transfer this proceeding.

Accordingly, the Court

- (1) ADOPTS the Report and Recommendation issued on January 30, 2009;
- (2) DISMISSES the United States as a respondent in this action;
- (3) in so doing, DENIES the United States' request to transfer this matter to the United States District Court for the Western District of Texas, see Response [Doc. 19] at

3-5;

(4) ORDERS that such denial be without prejudice to reurging of the issue by respondent Hector Ledezma, Warden, if warranted by applicable law and the facts in this case; and

(5) RE-REFERS this matter to Magistrate Judge Couch for further proceedings.

ENTERED this 25th day of February, 2009.


LEE R. WEST
UNITED STATES DISTRICT JUDGE